

MATTER OF LI

In Deportation Proceedings

A-18431665

*Decided by Board November 19, 1970*

Motion to reopen deportation proceedings is not granted merely because a third preference visa petition on behalf of respondent was approved subsequent to the entry of a final order of deportation.

ON BEHALF OF RESPONDENT: David C. Marcus, Esquire  
215 West Fifth Street  
Los Angeles, California 90013  
(Brief filed)

Respondent moves to reopen deportation proceedings. The motion will be denied.

The record before us reflects the following uncontroverted facts: On September 4, 1969, this Board entered an order dismissing respondent's appeal from an order of a special inquiry officer finding her deportable as an overstayed visitor and granting her a period of ten days within which to depart voluntarily from the United States. In our order, in accordance with *Matter of Villagas-Aguirre*, Interim Decision No. 1940 (BIA, 1969), we authorized voluntary departure within ten days from the date of our decision. No further extension of the voluntary departure time was granted and on respondent's failure to depart the alternate order of deportation became effective.

Thereafter, on January 15, 1970, the District Director approved a third preference visa petition filed in respondent's behalf. Called in to surrender for deportation, respondent on March 16, 1970 filed a petition under section 106(a) of the Immigration and Nationality Act in the United States Court of Appeals for the Ninth Circuit, seeking review of our order of September 4, 1969. The petition was dismissed as untimely, rehearing was denied, and on October 26, 1970 respondent's certiorari petition was denied by the Supreme Court, *Li v. Rosenberg*, No. 5523, October Term, 1970.